

Approved as Submitted: November 2, 2005

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – OCTOBER 19, 2005**

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 6:00 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Grzan, Sellers, Tate and Mayor/Chairman Kennedy

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

Interim City Attorney/Agency Counsel Siegel announced the below listed closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 3

2.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority: Government Code Section 54956.8
Property: 1505 Fieldshire Way, APN: 728-15-001
Agency Negotiators: Agency Director, Interim Agency Counsel, Director of Business Assistance & Housing Services
Parties: Lisa I. Corona
Under Negotiation: Price, Terms of Payment

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:02 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:03 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Siegel announced that no reportable action was taken in closed session.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, Chief of Police Cumming led the Pledge of Allegiance.

RECOGNITIONS

Mayor Kennedy presented Santa Clara County Fire Chief Ben Lopes with a Certificate of Recognition in honor of Santa Clara County Fire Department being awarded Accreditation by the Commission of Fire Accreditation International. Santa Clara County Fire Department has been given this esteemed accreditation in recognition of their outstanding performance in meeting or exceeding all applicable criteria.

Mayor Kennedy presented Michelle May with a Certificate of Recognition for an *Act of Heroism* for performing the Heimlich maneuver on a child choking on food at P.A. Walsh Elementary School.

Mayor Kennedy announced the Certificate of Recognition for an *Act of Heroism* to Mr. David Ward (not present at this time) for pulling passengers from a burning vehicle.

CITY COUNCIL REPORT

Council Member Grzan addressed the following:

- Serves on the Financial Policy Committee along with Mayor Pro Tempore Tate and staff. He stated the City will soon receive a packet of information that will assist with the Community Conversation. The Committee has begun identifying community groups and other members in the community to assist with the process; working through a plan that will have the community participate in the decision making. It is his hope that this will be a value driven undertaking and the community will identify the future direction of the City.
- Recently attended the League of California Cities annual conference in San Francisco. He stated that many workshops on budget, financing, and other issues pertinent to Morgan Hill were held. He attended the session presented by City Manager Tewes and learned a lot from a panel of experts. It was his belief that the information he received from the City of San Mateo will assist in shaping the “community conversation.” He perused the vendor fair and had a chance to look at

everything from software management systems to permeable concrete. He felt that conferences such as these are of great value to elected and appointed officials.

- Met with a group of residents who have taken a great interest in restoring Little Llagas Creek and developing a wildlife sculpture trail along its banks. The City Council has approved a wildlife area adjoining the new indoor recreation center and with an action before the Council this evening, the City will move forward with its initial design. Local artists have indicated a willingness to conduct a national competition to be held in Morgan Hill about wildlife sculpture with the proceeds to be used to purchase additional sculpture and to fund organizations such as the Wildlife Education and Rehabilitation Center.
- The Utilities & Environment Committee recently met with local residents on water pressure. Committee members received a wonderful report and presentation from Public Works staff on the City's 19 pressure zones. He said that some residents may be at risk with high water pressure in areas along the western and eastern slopes of the community. The Committee continues to work with staff and residents on these issues. The Committee continues to discuss energy aggregation and that it is his hope to return to the Council with an update soon. Committee is looking at alternative(s) to the one gallon jug oil recycling containers; and the adoption of a natural native California landscaping policy for new and renovated City facilities. The Council and the community will have an opportunity to look at and review an exhibit garden outside city hall in the near future.
- The Council's inaction on the recent cell tower is a concern. Although the Council voted to send the cell tower issue back to the Utilities & Environment Committee for further clarification, the Committee asked the Council to consider imposing a moratorium as the City does not have a policy in place to provide sufficient direction. He felt the reliance on past practice places the City at risk and does not provide for the application of a consistent policy or addresses the public's concern as to the placement/aesthetics of cell towers. He acknowledged that the FFC recently ruled that health concerns are sole reasons to disapprove the placement of cell towers. He said that many noted experts, as recently as 2004; indicate that the studies today are insufficient. The Committee will address the cell tower issue in an expeditious manner; reporting back to the Council as soon as possible.

Council Member Sellers said that at the League of California Cities' Conference, Council members took a look at activities being undertaken by other cities. He said that it became apparent, at the conference and in hearing a presentation at the Institute for Local Governance and other speakers, that the Community Conversation the City will be undertaking is innovative and is more extensive than any other cities have undertaken. He felt that this is a great process to undertake and that should the community conversation be a success, it will be something that many other cities will want to replicate in future years. He said that it was important to note the efforts of staff and the City Manager who thought about innovative ways of having this community conversation. He commended staff for thinking outside the box and the City for undertaking a very innovative endeavor.

CITY MANAGER REPORT

City Manager Tewes indicated that he did not have a special report to present this evening.

CITY ATTORNEY REPORT

Interim City Attorney Siegel stated that he did not have a report to present this evening.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comment for items not appearing on this evening's agenda. No comments were offered.

RECOGNITIONS (Continued)

Upon arriving to the meeting, Mayor Kennedy presented David Ward with his Certificate of Recognition for an *Act of Heroism*.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Mayor Kennedy requested that item 2, Mayor Pro Tempore Tate requested that item 14 and Council Member Grzan requested that item 15 be removed from the Consent Calendar.

Action: *On a motion by Council/Agency Member Carr and seconded by Council/Agency Member Grzan, the City Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Items 1, 3-13, and 16-18, as follows:*

1. **INDOOR RECREATION CENTER PROJECT – SEPTEMBER CONSTRUCTION PROGRESS REPORT**
Action: **Information** Only.
3. **THIRD AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF HATCH & PARENT**
Action: **Authorized** the City Manager to Execute a Third Amendment to the Agreement with the Law Firm of Hatch & Parent.
4. **SECOND AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF PRESTON, GATES & ELLIS, LLP**
Action: **Authorized** the City Manager to Execute a Second Amended Agreement with the Law Firm of Preston, Gates & Ellis, LLP.

5. **PAYMENT TO SANTA CLARA COUNTY FOR VEGETATION ABATEMENT ON CITY-OWNED PROPERTY**
*Action: **Approved** Payment in the Amount of \$33,847.19 for Vegetation Abatement.*
6. **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9617, CAPRIANO PHASE VI**
*Action: 1) **Adopted** Resolution 5959, Accepting the Subdivision Improvements Included in Tract 9617, Commonly Known as Capriano Phase VI; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.*
7. **FINAL MAP APPROVAL FOR THE RANCH AT ALICANTE (TRACT 9716)**
*Action: 1) **Approved** the Final Map, Subdivision Agreement and Improvement Plans; 2) **Authorized** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and 3) **Authorized** the Recordation of the Map and the Subdivision Improvement Agreement, Following Recordation of the Development Improvement Agreement.*
8. **PUBLIC WORKS ASPHALT MAINTENANCE AGREEMENT FOR FISCAL YEAR 2005-2006**
*Action: 1) **Approved** New Maintenance Agreement for Annual Miscellaneous Pavement Repair Services; and 2) **Authorized** the City Manager to Execute the Agreement on Behalf of the City; Subject to Review and Approval by the City Attorney.*
9. **WILDLIFE TRAIL DESIGN CONTRACT**
*Action: **Authorized** the City Manager to Execute an Agreement with Bellinger Foster Steinmetz, in an Amount not to exceed \$40,450, for the Development of Construction Documents and Construction Oversight for the Morgan Hill Wildlife Trail; Subject to Review and Approval by the City Attorney.*
10. **DEPOT STREET SEWER REPLACEMENT PROJECT**
*Action: 1) **Awarded** Contract to D'Arcy & Harty Construction, Inc. for the Construction of the Depot Street Sewer Replacement Project in the Amount of \$382,940; Subject to Review and Approval by the City Attorney; 2) **Authorized** the Expenditure of Construction Contingency Funds not to Exceed \$38,294; and 3) **Appropriated** \$117,000 From the Unappropriated Sanitary Sewer Rehabilitation Fund (643).*
11. **AWARD OF PROFESSIONAL SERVICES CONTRACT FOR SEWER INFILTRATION INVESTIGATION IN THE ATHERTON AREA**
*Action: **Authorized** the City Manager to Execute a Consultant Agreement with V&A Consulting Engineers, Inc. for Sewer Infiltration Investigation in the Atherton Area in the Amount of \$28,600; Subject to Review and Approval by the City Attorney.*
12. **ESTABLISH NEW CLASSIFICATION AND SALARY RANGES**
*Action: 1) **Adopted** the New Job Description and Salary Range for the Position of Public Safety Dispatcher Supervisor; 2) **Abolished** the Lead Public Safety Dispatcher Position; 3) **Reclassified***

and **Established** New Salary Range for Property/Evidence Technician; 4) **Changed** the Title of Police Lieutenant to Police Commander; 5) **Established** Salary Range for Special Assignments for Senior Planner Position; and 6) **Reclassified** the Vacant Associate Planner Position to Senior Planner Position.

13. **PURCHASE OF POLICE VEHICLES**

Action: 1) **Authorized** the Purchase of Four (4) Vehicles from The Ford Store through reliance upon the Competitive Bid Process by the City of Gilroy, for a Total Cost of \$91,069.85; and 2) **Declared** Four (4) Vehicles being replaced as Surplus and **Authorized** the Sale of these Vehicles at Auction.

16. **ADOPT ORDINANCE NO. 1740, NEW SERIES**

Action: **Waived** the Reading, and **Adopted** Ordinance No. 1740, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING DESIGNATION FROM ML, LIGHT INDUSTRIAL, R-2 (3500) RESIDENTIAL AND CG, GENERAL COMMERCIAL TO CC-R, CENTRAL COMMERCIAL/RESIDENTIAL FOR TWENTY NINE PARCELS TOTALING 13.25 ACRES LOCATED AT THE SOUTHEAST CORNER OF EAST DUNNE AVENUE AND CHURCH STREET AND SOUTH SIDE OF EAST OF DUNNE AVENUE BETWEEN MONTEREY ROAD AND CHURCH STREET NORTH OF BISCEGLIA AVENUE. (APNS 817-01-018 thru 022, 026, 031 thru 039, 045, 046, 050, 051, 053 thru 057, 059 thru 064).**

17. **SPECIAL CITY COUNCIL MINUTES OF SEPTEMBER 30, 2005 MEETING**

Action: **Approved** as Submitted.

18. **JOINT REGULAR AND SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF SEPTEMBER 30, 2005**

Action: **Approved** as Submitted.

2. **DOWNTOWN TRAFFIC CALMING – THREE MONTH REVIEW AFTER JUNE 2005 INITIAL INSTALLATION**

Mayor Kennedy requested a brief report on this item.

Director of Public Works Ashcraft indicated that in June 2005, the Council approved an expenditure of \$75,000 to install initial traffic calming measures in the downtown area. He indicated that the purpose of the report is to highlight the success of these measures in terms of traffic reduction and/or reduction in speed. He informed the Council that after approximately four months of having the traffic cushions and crosswalks installed at Third Street, both north and south directions, reducing the travel lanes from 12 feet to 10.5 feet, increasing the visibility of the crosswalks at First Street, and increasing landscaping in the medians near Fourth Street, the report shows that there has been no drop in traffic volumes. In terms of speed, on average, he stated that there has been very little change in speed. He said that the traffic

cushions lowered speeds through the crosswalks. However, there have been four accidents attributed to the speed bumps: three rear end accidents, none which caused major injuries; and one where a trailer came off its hitch. He indicated the City received a claim for the trailer hitch accident. He stated that staff believes the speed cushions have substantially reduced speed at Third Street. However, staff is concerned about accident history. Therefore, staff would like to have another three months to evaluate the measures in place before taking any action to add or remove traffic calming measures. He informed the Council that he has spoken to traffic engineers about how many accidents it would take to consider the speed cushions a hazard and that it has been suggested that five accidents in one year may warrant a different type of traffic control measure.

Mayor Kennedy inquired whether there was a different speed cushion design that would allow a slightly higher speed. He felt it intuitive that these speed bumps are not intended for the posted speed limit.

Director of Public Works Ashcraft informed the Council that this design is a fire department friendly design that allows wide wheel based vehicles to drive without having to slow down. He stated that the speed bumps were tested extensively by staff before recommending their installation to the Council. He was not sure whether another vendor would make a lower (height) speed cushion. However, it was his belief that the affect of a lower speed cushion would tend to raise the speed.

Mayor Kennedy felt that this particular speed cushion causes typical drivers to drive slower than the posted 25 mph to avoid a rattling/jarring motion. He supported an alternative measure that would satisfy the objective. He inquired whether the City has warning signs that announces a reduced speed zone ahead. If not, he recommended they be installed as they would result in minimal cost to the City.

Director of Public Works Ashcraft said that installation of warning signs is not substantial, in terms of cost. However, there would be a question of sign proliferation. He felt studies would show that warning signs would not result in a reduction in speed.

Council Member Grzan said that should there be three to four vehicles proceeding across Dunne Avenue in close proximity to each other, the second and/or third vehicle may not realize that a speed bump is approaching. He felt that speed cushions are problematic and jarring, but does not know of an alternative solution at this time.

Mayor Kennedy opened the floor to public comment.

Gary Walton stated his support of the speed bumps as they have done the job of reducing speed in the downtown area. He felt the best way to slow traffic down in the downtown is to reduce Monterey Road to one lane. He noted that there have been a number of deaths in the downtown and that one of the downtown planters has been destroyed. He felt it important to reclaim main street in the downtown. He felt citizens would realize speed cushions are in place, with time. He requested the City revisit the possibility of narrowing the lane as this may also increase street parking by 30%. He applauded the City for doing the right thing and felt that slowing traffic down will maintain the City's rural character.

Leslie Miles said that she has noticed, over the past 5-6 years, speed of traffic has increased in the downtown to a point where an individual cannot cross at crosswalks. She felt that speed bumps create an environment such that individuals are aware of their surroundings, created a different environment, and is substantially safer crossing Monterey Road. She said that there are opportunities to look for additional or different traffic calming measures. She applauded the public works department for going through the lengths of establishing these traffic calming measures. She requested the City retain the speed bumps. If not, the City looks at a different, but better solution.

Dan Craig, Executive Director for the Downtown Association, stated that speed bumps are considered a safety feature to the pedestrian environment in the downtown. He felt that they give pedestrians a fighting chance to compete against automobiles. He noted that a fundamental goal of the Downtown Plan is to create a pedestrian environment. He felt the community is moving toward this end with sidewalk dining. Before the installation of speed bumps, pedestrians would be waiting and hedging toward crossing Monterey Road. He agreed that speed bumps jog individual's mindset and has created a heightened awareness of the pedestrian downtown. He recommended Council consider installation of similar speed cushions at First Street.

No further comments were offered.

Mayor Kennedy noted that this is an informational item. He proposed the following interim solutions: 1) installation of "reduced speed zone ahead" signs as they can be installed at a minimal cost and would provide additional warning; and 2) installation of a second speed bump/crosswalks, at First Street. Staff to return with a budget appropriation for Council consideration at a future meeting. He acknowledged that these are band aid solutions. He felt the long term solution would be to narrow Monterey Road to one lane, in each direction, in order to make the downtown a pedestrian destination. However, funding would be needed to make it work; including funding to extend Butterfield Boulevard south to Monterey/Watsonville Road and Monterey Road to the north so that there is an alternative route for trucks and other traffic to bypass the downtown. He noted that the Council will be looking at extending the Redevelopment Agency and is putting together a list of projects that are necessary for the community. He recommended that two of these projects be the extension of Butterfield to the north and south; and the redesign/narrowing of Monterey Road in order to make it a one lane pedestrian oriented downtown. He requested that this be brought back to the Council, including interim measures, as soon as possible.

Mayor Pro Tempore Tate stated that he was not prepared to discuss Mayor Kennedy's proposal this evening as this was an informational item. He stated that he is in accord with staff's recommendation to extend the trial period for three months. He said that adding speed bumps may double the problem, if there are problems with the speed cushions. He indicated that he would like to give thought to Mayor Kennedy's suggestion and take them under advisement. He would not support taking any other actions other than staff's recommended action this evening.

Council Member Sellers felt speed bumps could be considered as place holders. He said that any action that might be undertaken in the future would only be placeholders. What will slow traffic in the downtown is a lot more traffic, active businesses, and residents. He noted the City is on its way to

putting this together. Once the City creates a “place,” traffic will go at a slower pace as is seen in Los Gatos, Willow Glen and other successful downtown communities. He said that this would be the time to consider adding additional parking and proceed with other items. He said that it is a difficult transition because Monterey Road was a former freeway; a significant thoroughfare. It could be that Monterey Road is still considered a main arterial. He concurs that it would be important to wait another three months to see if the City continues to have accidents/issues. He felt the City needs to make sure that its focus remains on building the community of the downtown as this would be what ultimately gives the City the slowing of traffic desired.

Mayor Kennedy agreed that the third step in creating a viable pedestrian downtown through housing and people in the downtown, as well as having additional businesses.

Action: ***Information** Only at this time.*

14. REPLACEMENT PURCHASE OF A POLICE VEHICLE

Mayor Pro Tempore Tate noted that this item is a request to replace a police car that was burnt. He requested a briefing on the City’s insurance policy. He felt that when something is only 1% used, it should be replaced by the manufacturer. However, he was not sure whether it has been determined what caused the fire. He did not understand why the City should be out of pocket for something that should be under warranty.

Commander Booten informed the Council that the City has been provided with an arson investigator by ABAG. Staff is awaiting the investigation report and that it was her belief that the report would be completed within a week or so. She indicated that in a police car, you are not only looking at the manufacturer of the vehicle, but also looking at the company that installed the wiring. She felt that there may be some finger pointing between the two. In the meantime, the City needs to replace the vehicle.

Mayor Kennedy opened this item to public comment. No comments were offered.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0): 1) **Authorized** the Vehicle Purchase and Police Equipment Build Out through The Ford Store Morgan Hill for the Vehicle Identified in the Staff Report for a Total Cost of \$23,517.70; and 2) **Approved** a \$13,518.00 Budget Increase in the Equipment Replacement Fund for the Portion of the Replacement Cost over the Insurance Deductible that will be Financed with the Insurance Proceeds or other Reimbursements.*

15. FINDINGS FOR BUILDING PERMIT FEES CHARGED FOR INSTALLATION OF A SOLAR – ELECTRIC PHOTOVOLTAIC ROOF SYSTEM

Council Member Grzan said that in looking at the staff report, he noted that rates are high for Morgan Hill. He inquired whether the Council would like to consider an incentive for individuals who install solar electric devices to encourage energy conservation. He felt it appropriate for a Council committee to

review this as a potential item for Council consideration. He said that as a member of the Utilities & Environment Committee, he would agree to review potential incentives for the community.

Council Member Sellers noted that the staff report indicates that the City of Oakland has significantly lower fees in place versus the other cities surveyed. He recommended the Utilities & Environment Committee look at the City of Oakland's policy as a starting point.

Action: *By consensus, the Council **Took No Action;** Information Only. (However, agreed to refer the item to the Utilities & Environment Committee.)*

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency Member Carr and seconded by Agency Member Grzan, the Agency Board unanimously (5-0) **Approved** Consent Calendar Items 19-21, as follows:*

19. **SALE OF BELOW MARKET RATE (BMR) HOME LOCATED AT 324 VIA NAVONA**
Action: *1) **Authorized** use of up to \$20,000 to Complete any Necessary Repairs for this BMR Unit; and 2) **Authorized** Staff to Sell this BMR Unit to a Median Income BMR Buyer at the Established Median Income BMR Home Price.*
20. **LOAN TO COMMUNITY SOLUTIONS FOR THE REHABILITATION OF THE LA CASA DEL PUENTE TRANSITIONAL SHELTER FOR THE MENTALLY DISABLED**
Action: *1) **Approved** a Loan of up to \$102,000 under the Redevelopment Agency's Housing Rehabilitation Loan Program to Community Solutions; and 2) **Authorized** the Executive Director to do Everything Necessary to Prepare and Execute Loan Documents.*
21. **AUTHORIZATION TO APPLY FOR AND ACCEPT A CALIFORNIA HOUSING FINANCE AGENCY (CalHFA) HELP LOAN FOR HOUSING PROJECTS – MHRA-258**
Action: *1) **Adopted** Resolution No. MHRA-258, Authorizing the Executive Director to Apply to the California Housing Finance Agency (CalHFA) "HELP" Program for a Loan of up to \$1 Million Dollars; and 2) **Authorized** the Executive Director to do Everything Necessary to Accept and Execute the Loan with CalHFA, if Awarded.*

City Council Action (Continued)

CONSENT CALENDAR:

Mayor Kennedy requested that item 22 be removed from the Consent Calendar. He stated that he would be abstaining from this item as he had taken a position not to support this action earlier, and that he wanted to remain consistent with his previous action.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council, on a 4-0-1 vote with Mayor Kennedy abstaining, **Approved** Consent Calendar Item 22, as follows:*

22. ADOPT ORDINANCE NO. 1739, NEW SERIES

Action: ***Waived** the Reading, and **Adopted** Ordinance No. 1739, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL PRE-ZONING 19.87 ACRES FROM COUNTY OF SANTA CLARA AGRICULTURAL ZONING (A-20) TO PLANNED UNIT DEVELOPMENT (PUD) ZA-05-10: CONDIT-KUBO (APN 728-17-011, -024, -025).***

City Council Action

PUBLIC HEARINGS:

Community Development Director Molloy-Previsich presented the staff report on a city-initiated zone change, on behalf of Associated Concrete, in order to facilitate the relocation of their existing facility from the downtown area to an industrial district. Doing so would allow for future residential development on the existing site per the Downtown Plan; a use more compatible for the downtown versus a concrete batching plant. She informed the Council that the potential relocation site consists of approximately 3 acres located on the northwest corner of Mast and Railroad Avenue. The Planned Unit Development would make concrete batching plants a permitted use on the site and would allow silos up to 70 feet in height. While a permitted use in the PUD district, it is worth noting that any future development application would be subject to site and architectural review as well as CEQA review; including mitigation measures to address any potential impacts. She informed the Council that the City does not have a development application at this time. She informed the Council that the Planning Commission held a public hearing and voted unanimously to recommend Council adoption of the PUD. She indicated that two individuals spoke in opposition to the zoning amendment at the October 11, 2005 Planning Commission meeting expressing concern that batch plants would not be an appropriate use for the site.

Mayor Kennedy opened the public hearing.

Sam Laub informed the Council that he is the property owner of 120 Mast Street and that he was speaking on behalf of Dick Flynn, property owner of 140 Mast Street who is out of state this evening. He felt that the relocation of the use from the downtown was commendable, but felt that the selection of this particular location at Mast-Railroad Avenue is inappropriate. He noted that the Mast Street and Railroad Avenue area is currently zoned light industrial. However, he realizes that Morgan Hill's zoning system does not distinguish between light industrial or heavier industrial uses. Therefore, the City will be distinguishing by means of a PUD. He felt the PUD zoning designation to be inappropriate as it opens up the entire area for future PUDs and that this would be setting a precedent. He felt the City would be creating an undesirable exception. The need to create a special zoning amendment for the PUD indicates that the existing zoning would not permit this particular use. He felt that approval of the

zoning amendment would create an enforcement problem. He inquired whether the City could enforce the restriction on cement truck traffic to non residential streets for commercial delivery. Can an owner/applicant affectively supervise drivers to see that they comply with the requirement that they not use residential streets? Will the City be able to determine that a residential delivery is being made on a residential street? He felt that residents residing on a segment of Church Street, between Mast and San Pedro Avenue, would be surprised to find that their streets are not considered residential for the purpose of a zoning ordinance. He inquired whether the zoning amendment is consistent with the general welfare of the Church Street residents and existing businesses. He did not believe the City would be able to make the finding that the use is consistent with Section 2 of the proposed ordinance.

Brian Bradshaw indicated that his business is located on Mast Street, approximately 300 feet from the proposed relocation of the batching company. His business, a machine shop, cuts metal and precision plastics. He stated that if the City changes the environment in this area, it could disrupt his business as his business requires cleanliness. It was his understanding that a cement yard produces a lot of dust. He has heard that the new system would not generate a lot of dust. However, he felt that truck tires would through rocks at cars behind them. He expressed concern that this would take place on Vineyard Boulevard and that this road would be destroyed and vehicles damaged. He stated that recently, a cement truck rolled over on the corner of Vineyard and Tennant, damaging a street light; resulting in a huge traffic back up. If trucks stop at the railroad tracks or other streets, trucks will start sinking/damaging the road base, resulting in damage to other vehicles.

No further comments being offered, the public hearing was closed.

Ms. Molloy Previsich stated that one of the performance standards in the PUD district would require the submittal of a dust management plan. She said that any future development application would be subject to CEQA. Land use impacts, hazardous materials and air qualities would be addressed at the time a development application is proposed. She recalls that at a prior hearing, the business owner of the concrete batch plant stated that with advancements in technology, any replacement facility would be a lot cleaner and produce less dust than what is being produced by older plants. With regards to the question associated with enforcement, she said that the performance standards require that truck traffic use non residential streets. She clarified that the language in the PUD states that truck traffic should be generally restricted to non residential streets. Therefore, there is no absolute prohibition of using residential streets. The PUD states that the use of residential streets is permitted for residential deliveries. She clarified that the standard within the ordinance would give the City a tool, in the future, should it be needed. She does not envision this to be an enforcement headache unless the operator becomes problematic. She clarified that the primary reason for proposing the zone change is that the Downtown Plan suggests that there would be more appropriate uses in the existing location versus a concrete batching plant. She noted that the suggested location is located in a heavy industrial zoning district. Therefore, there is not another location in town where heavy industrial uses could be located other than this location adjacent to the railroad track in a general industrial zoning district.

Council Member Sellers said that these have always been difficult issues. In the past, the Council has reviewed the issues to determine the appropriate areas of a use in a particular location and whether concerns can be mitigated. He felt that valid concerns were raised. If he did not believe the City could

take care of these concerns, he would not be supportive of moving forward. However, he was confident that the Council can resolve concerns based on new technology and specifying routes. He felt the public would still have opportunities to weigh in at time of formal development application submittal.

Mayor Pro Tempore Tate said that concerns expressed would be concerns that could apply to the current location of the batching plant. He noted that the City has not received complaints that problems exist today. He noted that Associated Concrete trucks can be seen all over town and they have served this community for many years. He does not see the problems identified occurring and felt the City has addressed the location as the best location the City has for this type of use.

Council Member Carr stated his concurrence with Mayor Pro Tempore Tate's comments. He said that the City needs to keep in mind that the current owner/operator of Associated Concrete has been in business for several years and has been very involved in the community. He felt the owner would work with the City to make sure that concerns are mitigated.

Mayor Kennedy echoed Mayor Pro Tempore Tate's and Council Member Carr's sentiments. He stated that the Goularte family has been extremely cooperative in working with the City. He felt the City would have the necessary controls in place as well as a property/business owner who will comply and do their best to meet the needs of the community; addressing any concerns that might be raised.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Waived** the Reading in Full of the Ordinance No. 1741, New Series.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1741, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A PLANNED UNIT DEVELOPMENT (PUD) FOR A 2.94-ACRE PARCEL LOCATED AT THE NORTHWEST CORNER OF MAST STREET AND RAILROAD AVENUE TO ALLOW CONCRETE BATCHING PLANTS AS A PERMITTED USE IN THE PUD AND SILOS UP TO 70 FEET IN HEIGHT (APN 817-02-064) (ZA-05-06: CITY OF MORGAN HILL – MAST STREET PUD DISTRICT AMENDMENT)**, by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

15. FINDINGS FOR BUILDING PERMIT FEES CHARGED FOR INSTALLATION OF A SOLAR – ELECTRIC PHOTOVOLTAIC ROOF SYSTEM (Continued)

Mayor Kennedy indicated that he neglected to call upon a citizen wishing to address the Council under Consent Calendar Item 15. He opened the floor to public comment.

Robert Kushner said that the building permit fee schedule seems to be used for the installation of a solar system. He did not believe that the two were the same type of permit. He provided the Council with examples of what other cities charge. His vendor informed him that the highest fee that they have seen

was \$1,000 for a solar system and felt that the City of Morgan Hill's fees were outrageous for such a system. He stated that a solar system is an expensive product to be installed. He would agree to attend the Utilities & Environment Committee meetings.

No further comments were offered.

24. DEVELOPMENT AGREEMENT AMENDMENT, DAA-04-07: MONTEREY-SOUTH COUNTY HOUSING (ROYAL COURT) – Ordinance No. 1742, New Series

Director of Community Development Molloy Previsich presented the staff report on a request to amend a development agreement to allow for a 10-month extension for the Fiscal Year 2005-06 residential allotments for 54-units, a part of the Royal Court project located between Monterey Road and Del Monte Avenue, north of Wright Avenue. She indicated that the reason for the delay was attributed to the fact the project needed to work through complicated funding issues and resolve grading issues with the Santa Clara Valley District and the City of Morgan Hill. She informed the Council that the Planning Commission unanimously recommends Council approval of the development agreement, recommending further amendments to certain timeframes. She indicated that the applicant was agreeable to all changes requested by the Planning Commission.

Mayor Kennedy opened the public hearing.

Mr. Swiontek, President of the Del Monte Homeowners Association located across the street from this development, informed the Council that the residents are eager to have the South County Housing development as neighbors.

No further comments being offered, the public hearing was closed.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1742, New Series.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council **Introduced** Ordinance No. 1742, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1707, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-04-02: Monterey – South County Housing (Royal Court) (APNs 764-12-008, -009, -018, & -019), by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

25. APPLICATION ZA-05-08: AMENDING THE ZONING CODE LOT DEFINITION AND PARKING CODE STANDARD ON TANDEM PARKING – *Ordinance No. 1743, New Series*

Director of Community Development Molloy Previsich presented the staff report, indicating that this is a staff initiated zoning text amendment. She informed the Council that this item came to staff's attention because of the changes taking place in order to implement the Downtown Plan to call for higher residential development. She said that it is oftentimes problematic to meet current requirements that lots have frontage on a public street to accommodate higher density development. It is being recommended that this requirement be removed in the R-2, R-3, R-4 and CC-R zoning districts. The second change relates to tandem parking as it is sometimes necessary for attached housing to attain the type of density desired in the downtown and offers other benefits to higher density development. She informed the Council that the Planning Commission reviewed these amendments and voted 4-2 to recommend Council approval. She indicated that a couple of planning commissioners did not believe that the tandem parking should be an opportunity in the R-2 and R-3 zoning district, only in the R-4 and CC-R zoning districts. She stated that staff supports allowing the flexibility for tandem parking in all of the zoning districts. She informed the Council that staff distributed a minor amendment to the ordinance to substitute "circulation aisle" with "major driveway aisles" as the latter term is already included as a term in the zoning ordinance definition section.

Council Member Sellers noted that the CC-R zoning is a timing issue. He noted that applications have been submitted for Measure C recently. He inquired what possible impacts would be associated with the proposed amendment to individuals who have submitted Measure C applications. Would individuals need to pay new fees and go through a new process?

Ms. Molloy Previsich said that applicants were told that staff was pursuing an amendment to the lot definition at a pre application meeting held in September as it was staff's belief that it was a reasonable amendment and in line with the Council's intent in the Downtown Plan for residential development. She did not believe that this would create a problem for any of the applicants.

Mayor Pro Tempore Tate noted that a couple of Planning Commissioners did not support tandem parking and that it was his belief, in reading through their minutes, that the Planning Commission did not support the amendment in any of the zoning districts.

Ms. Molloy Previsich indicated that one commissioner seemed to be open to the amendment for the high density R-4 and CC-R, but did not support it in the R-2 and R-3 zoning districts. The Commission expressed concern with tandem parking working at all. It was her belief that the second commissioner may have had the same concern. It was her belief that tandem parking can work.

Mayor Kennedy opened the public hearing.

Scott Schilling indicated that he attended the Planning Commission meeting and that he has been involved in discussions with staff regarding the proposed text amendments and the tandem parking issue. He commended staff, Planning Commission and City Council for considering these significant

changes as they would give more flexibility in the higher density zoning to create a higher quality living environment, while at the same time, achieving the density the Council wants to see in these zoning districts. He felt that these amendments would help to produce more for-sale housing in these zoning districts. He stated his support of the changes.

No further comments being offered, the public hearing was closed.

Mayor Pro Tempore Tate said that based on the discussions at the Planning Commission level, you give thought to where the proposed zoning text amendments would be appropriate. He felt that the changes would be appropriate in the R-3 and R-4 zoning district. It may or may not work in the R-2 zoning districts, based on density. However, if authorized, it should be allowed with all R-2 projects.

Mayor Kennedy said that there is a condominium project located on East Dunne Avenue, east of the Hill Road fire station that incorporated tandem parking. He said that he has not heard any problems or complaints associated with tandem parking and felt that it seems to work.

Council Member Sellers said that individuals who purchase for-sale units would make the decision to use tandem parking or use their garages.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1743, New Series, as amended.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council **Introduced** Ordinance No. 1743, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 18.04.245 OF THE MORGAN HILL MUNICIPAL CODE, ELIMINATING THE STREET FRONTAGE REQUIREMENT TO THE LOT DEFINITION, AND AMENDING SECTION 18.050.200, ELIMINATING THE RESTRICTION ON TANDEM PARKING FOR REQUIRED PARKING SPACES IN THE R-2, R-3, R-4 AND CC/R ZONING DISTRICTS, as amended, by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

26. ZONING AMENDMENT, ZA-05-11: CITY OF MORGAN HILL – ESTABLISHING PROVISIONS FOR DOWNTOWN ADMINISTRATIVE USE PERMITS – Ordinance No. 1744, New Series

Director of Community Development Molloy Previsich presented the staff report, indicating that approximately a year ago, in order to implement the Downtown Plan, some code amendments went into affect that required a conditional use permit for retail uses on ground floors in the downtown area. Since the code changes went into affect, staff has received complaints that some of the existing buildings were designed to accommodate ground floor office uses as they do not have store front windows or other design features that typically would indicate a retail use would be appropriate. She stated that some

individuals have indicated that the downtown market for retail use is not sufficiently strong to attract ground floor retail uses to all ground floor spaces. It is being suggested that the City create a process, different from the typical conditional use permit process that costs \$4,600 and takes six weeks to get to a public hearing before the Planning Commission. She said that this process is a disincentive for personal service or office users to consider occupying space in the downtown. She stated that this has created some frustration for owners with downtown space. This was also a concern of the property owner of the Sunsweet PUD. Staff offered several alternatives at that time; one being to create an administrative use permit process applicable to the downtown. She felt that the administrative process would work in the downtown, at a lesser cost, because the City is not reviewing high impact uses and that CEQA review has been conducted, with most uses being exempt from CEQA. A property owner would be able to come to the City and demonstrate that they have not been able to find a retail tenant or that the building was not designed to accommodate retail uses. The City could grant an administrative use permit upon making the appropriate findings and approve the use permit administratively. She informed the City Council that the Planning Commission, on a 6-1 vote, is recommending Council approval of the zoning text amendment.

Ms. Molloy Previsich informed the Council that subsequently, staff met with members of the Morgan Hill Downtown Association and received additional comments. It was her understanding that the Downtown Association supports moving forward with the adoption of the ordinance. However, they would like to have additional discussions and potentially future ordinance amendments to consider the following: 1) ground floor retail is to be defined to just apply to the immediate downtown area (e.g., Main to Dunne Avenues). 2) Administrative use permits are good for three years. At the end of three years, the City would review to determine if conditions have changed and whether the permit should be renewed or extended. 3) The downtown administrative use permit to be allowed only when the retail vacancy rate exceeds 5%. 4) Buildings in the immediate downtown area not designed for retail use could be excluded entirely. She stated that staff is supportive of further research and discussions with the Downtown Association and the Planning Commission about some of these ideas. However, staff and the Planning Commission recommend the Council move forward with the ordinance before it. Also, that the Council provide direction to staff that it work with the Downtown Association, through the Planning Commission, to consider some of the other ideas of further address the matter of retail uses in the downtown area.

Mayor Kennedy opened the public hearing.

Dan Craig, Executive Director of the Downtown Association, indicated that following the Planning Commission hearing on this item, he had the opportunity to meet with staff. He informed the Council that he met with the property owner located outside the core area as defined by the Downtown Plan to discuss the issue. It appears that a use outside of the core area may not necessarily be appropriate for the ground floor restriction and that it was creating an administrative use permit process that was diluting the intent of the ground floor restriction in the downtown core area desired. He said that it was the intent of the Downtown Plan ground floor restriction to apply to the area bound by Main to Dunne Avenues. Therefore, the property owner located north of Main Avenue should be exempt from the ground floor restrictions. Because of the timing of their intervention in this matter, the Downtown Association supports staff's recommendation to move forward with the ordinance before the Council.

However, the Downtown Association would like to go back and readdress some of the provisions identified this evening with the Planning Commission. This would move this applicant forward. He stated that the Downtown Association recommends that should the downtown core area becomes the restricted area and the ordinance is not applicable to the property owner, consideration be given to refunding fees.

Gary Walton concurred with some of the comments expressed by Mr. Craig. He said that it was unfortunate that Mr. Kushner had to go through this process because the Downtown Plan was stopped at Main Avenue, noting that Mr. Kushner was located a distance up the road. He felt the downtown core should be the area that is walkable (Main to Dunne Avenues). However, the downtown area got stretched out with consequences. He noted that there were buildings designed as office buildings. He felt it unfair to place these property owners through the process of requiring retail when the buildings were not designed for retail. He stated his support of the ordinance in order to allow Mr. Kushner to move through the process and get his tenant into the building. Rather than making unilateral decisions, he recommended the Downtown Association be consulted early in the process to receive input. He felt that this needs to be a collaborative effort prior to adoption of policies and/or ordinances as the Downtown Association focuses on the downtown in order to avoid these types of situations.

Dan Ehrler indicated that he received the proposed zoning amendment information and felt that this falls within the Chamber of Commerce's interest in economic development. He stated that he attended the Downtown Association's meeting and asked Chris Bryant, Chair of the Attraction and Retention subcommittee of the Economic Development Committee, to add this item to the regularly scheduled meeting this month. The item was discussed with the Committee recommending, to the Chamber of Commerce's Board, a recommendation to support the proposed zoning amendment. He informed the Council that the Chamber of Commerce Board unanimously recommends support of the zoning amendment and the efforts of the Downtown Association with respect to their request for further consideration. With the passage of the zoning amendment, it would accomplish one thing in terms of economic development; allowing a business to proceed which would help the owner of the property, creates jobs, and assists the economy.

No further comments being offered, the public hearing was closed.

Council Member Sellers said that it was a unique set of circumstances that Mr. Kushner got caught up in. He said that this was a sound policy that evolved from several things. The Council wanted to move north to ensure that retail uses are allowed in first floors. He did not believe that it made sense to cut off in mid property lines. Therefore, the Council extended the area to Central Avenue. He did not believe that this was a haphazard process or something that was not reviewed thoroughly. However, it created an unexpected situation that he hopes will be resolved. He acknowledged that there are a few things that need to be done, but felt that it made sense to proceed with the action this evening and continue to work with the downtown community. He recommended direction be given to have the Downtown Association continue to work closely with staff, as identified, working toward resolution of the outlying issues.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1744, New Series.*

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council **Introduced** Ordinance No. 1744, New Series, By Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADDING ARTICLE IV TO CHAPTER 18.54 (CONDITIONAL AND TEMPORARY USE PERMITS) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, TO ESTABLISH PROVISIONS FOR DOWNTOWN ADMINISTRATIVE USE PERMITS, AND AMENDING SECTION 18.24.030 TO ALLOW FOR ISSUANCE OF SUCH FOR GROUND FLOOR OFFICE AND PERSONAL SERVICE USES LOCATED ALONG MONTEREY ROAD AND THIRD STREET**, by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Directed** staff to work with the Downtown Association on their recommended amendments.*

City Council Action

OTHER BUSINESS:

27. REQUEST FOR ENDORSEMENT OF PROPOSITION 77 – REDISTRICTING INITIATIVE CONSTITUTIONAL AMENDMENT

Mayor Kennedy indicated that last week, the Regional Planning and Transportation Committee discussed this item. He noted that Morgan Hill was the foster child for gerrymandering of districts. Consistent with previous actions of the Council in filing a lawsuit at the state level in opposition to the redistricting, the Committee believes it appropriate for the Council to take a position in support of Proposition 77.

Council Member Sellers stated that it is frustrating that this issue has been placed on the ballot as redistricting was something legislators should not have done in the first place. Further, they had an opportunity to rectify the redistricting decision on their own. Although this is somehow a flawed process, it is better than what we have in place at this time. He noted that as currently drawn Morgan Hill, Gilroy and San Martin are in three different congressional districts. He indicated that the Committee recommends Council support of Proposition 77.

Council Member Carr stated that while he does not agree with all of Proposition 77 as a way to rectify the situation, he felt that something needs to be done. He said that the City tried to be a significant voice in the redistricting process as it was taking place, and after the redistricting took place, by filing suit. He concurred that something needs to be done, and felt the City needs to stand up for its citizens and make

sure that they have a voice as he does not believe that this is the case at the state or federal level. He stated his support of the Council taking action this evening.

Action: *On a motion by Mayor Kennedy and seconded by Council Member Sellers, the City Council unanimously (5-0) **Took** a position in support of Proposition 77.*

28. CONSIDER PROPOSED TEXT AMENDMENTS TO TITLE 2, ADMINISTRATION AND PERSONNEL, OF THE MORGAN HILL MUNICIPAL CODE

Council Services & Records Manager Torrez indicated that prior Council actions necessitate amendments to the Municipal Code as they relate to boards and commissions. She walked the Council through proposed amendments to Title 2, Administration and Personnel, of the Municipal Code.

Chapter 2.56 – Architectural & Site Review Board (ARB)

Regarding the question relating to consideration of appointments of individuals to the ARB who work in Morgan Hill, but who do not reside within the city limits or sphere of influence, the following comments were offered:

Mayor Pro Tempore Tate stated that he would willing to consider the appointment of one individual who works in Morgan Hill, but who do not reside in Morgan Hill, to the ARB.

Council Member Sellers expressed concern the Council may appoint a non Morgan Hill resident when there are residents of Morgan Hill to be considered. He recommended that a qualifying statement be included that stipulates that priority in appointment is to be given to Morgan Hill residents.

Regarding the question about conflicts of interest, Interim City Attorney Siegel indicated that a non Morgan Hill resident would have a greater conflict of interest than a Morgan Hill resident. He stated that one of the problems with the ARB, in general, is that a professional, regardless of residency, would be conducting business in the city limits.

Council Member Grzan stated that he has an issue with an employer serving on a board or commission being biased. He felt that the primary reason for serving on a board or commission is driven by financial interests.

Interim City Attorney Siegel did not believe that there is any more or less conflict of interest regarding where an individual resides. The conflict would arise with how much business the individual performs in the City.

Council Member Sellers said that should an ARB member be an architect and designed a building that is coming before the Board, they would not weigh in on the decision making process.

Mayor Kennedy noted that the ARB is a technical board and that the City is looking for individuals who have a particular expertise. He would support taking advantage of an individual's expertise if they work

in Morgan Hill. Therefore, he would support the appointment of professionals with the expertise desired to serve on the Board; limiting the number of non residents to be appointed.

Council Member Sellers felt that there could be a potential for an overlap in the reviewing authority. He noted that the indoor recreation center (IRC) was designed to be a multi generational facility. The Library, Culture & Arts Commission may have cultural items to review that could become programming issues at the IRC. The Parks & Recreation Commission would also be providing input on this facility. He felt that it would be important for the Commissions to know their purview limitations on various issues as some of the processes will need to go through and be reviewed by different commissions.

Terms of Office

Council Member Grzan stated his support of extending appointment terms to four-years in order to afford consistency on Boards and Commissions.

Mayor Kennedy stated his support of extending the two-year term to a four-year term as it affords stability and less disruption in going through the recruitment and interview process/efforts.

Recruitment Efforts

Regarding the timing of recruitment efforts, Mayor Kennedy recommended that the recruitment/interview process be staggered, slightly, so that the Council is not overwhelmed with holding all interviews at same time. The Council would be able to take advantage of appointing an individual to another board or commission if not appointed to the commission of choice.

Mayor Pro Tempore Tate expressed concern that this process would imply a prioritization of Council commissions. He felt that all commissions were important, equal and have different emphases. He indicated that it was his belief that individuals should apply to serve on a board or commission they qualify for. He did not see many instances where the Council would want to appoint to a different commission than what an individual applied for.

Mayor Kennedy indicated that he would like to capture an individual for another committee should they not be appointed to the commission of choice.

Mayor Pro Tempore Tate noted that there have been instances where individuals applied for multiple commissions because they do not understand their fit. He did not see anything wrong with this.

Council Member Carr supported recruitment efforts in a close enough timeframe. He did not believe it would make a statement about a hierarchy in the commissions. Staggering the recruitment/appointment process would provide enough time for an individual to apply for an alternate board or commission, should an individual not be selected to the commission of choice. He noted that at one time, the Council did not have enough applicants to appoint to the Planning Commission and the Council appointed an ARB applicant to the Planning Commission.

Mayor Pro Tempore Tate noted that prior to this year's interview process the Council had a short discussion regarding the qualifications and characteristics it is looking for in its board and commission members. He felt the Council needs to continue building on this process.

Mayor Kennedy felt it made sense to continue identifying the qualifications and characteristics being sought in a board or commissioner, preceding the interviews instead of the annual retreat.

Council Member Carr felt that it would be helpful for the Council to talk about expectations of board and commission members before the evening of the interviews. This discussion should take place before the recruitment process begins. The Council may decide to change the questionnaires in certain ways to assist in identifying expectations of the Council.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Supported** the Proposed Text Amendments to Title 2, Chapters 2.22 (Master Provisions for Boards & Commissions), 2.28 (Health Commission), 2.32 (Parks & Recreation Commission), 2.56 (Architectural & Site Review Board), 2.64 (Mobile Home Rent Commission), and 2.68 (Library, Culture & Arts Commission); and Addition of Chapter 2.70 (Senior Advisory Commission) to the Morgan Hill Municipal Code as follows:*

- *Amend sections relating to the Library Commission to reflect its current title of "Library, Culture & Arts Commission."*
- *Disband/Eliminate Section 2.28 "Health Commission."*
- *Delete reference of the Parks & Recreation Commission addressing "cultural facilities," including holding hearings and reviewing capital expenditures as they relate to cultural resources. This duty will be shifted to the Library, Culture & Arts Commission.*
- *Section 2.56, Architectural & Site Review Board, to be amended to allow any combination of professionals in order to provide flexibility in filling vacancies based on expertise. Further, the Council to consider appointment of one individual who works in Morgan Hill, but who does not reside within the City limits; acknowledging the difficulty in appointing to this Board. However, emphasis is to be given to residents of Morgan Hill as well as limiting the number of non resident appointments.*
- *Section 2.68, Library, Culture & Arts Commission, membership reduced to 7. At least 5 members to be Morgan Hill residents, 2 members may be appointed who reside in the unincorporated area of Santa Clara County and/or otherwise within the City's sphere of influence.*

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- *The addition of Section 2.70 entitled “Senior Advisory Commission,” supporting the powers and duties, as identified. It was acknowledged that there may be projects that will necessitate review by more than one of the commissions.*
 - *Agreed to consider four-year term appointments. Staff to work with the City Attorney’s office to stagger terms.*
 - *Recruitment/Appointment process to be staggered slightly.*
 - *Powers and duties to be reviewed by the expanded Library, Culture & Arts Commission.*
 - *Council to discuss expectations of boards and commission before the City Clerk commences the recruitment process as part of the Council’s annual retreat.*
 - *Staff to work with the City Attorney’s office to group like items to be included in the Masters Provision of the Municipal Code (consistency).*

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Directed staff** to request comments and input from the affected board and commission members.*

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Directed staff** to Return with a draft Ordinance, Incorporating Amendments to the Municipal Code as it Relates to City Council Appointed Boards and Commissions.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 9:18 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY